

Sterling A. Brennan (CA State Bar No. 126019; E-mail: sbrennan@wnlaw.com)
L. Rex Sears (Admitted *Pro Hac Vice*; E-mail: rsears@wnlaw.com)

WORKMAN | NYDEGGER A PROFESSIONAL CORPORATION

1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 533-9800
Facsimile: (801) 328-1707

Caroline McIntyre (CA State Bar No. 159005; E-mail: cmcintyre@be-law.com)

BERGESON, LLP
303 Almaden Boulevard
Suite 500
San Jose, California 95110-2712
Telephone: (408) 291-6200
Facsimile: (408) 297-6000

Attorneys for Plaintiff FINISAR CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINISAR CORPORATION, a Delaware
corporation,

Plaintiff,

v.

U.S. BANK TRUST NATIONAL
ASSOCIATION, a national banking
association, not in its individual capacity,
but solely in its capacity as Indenture
Trustee in behalf of all Holders of Finisar
Corporation's 5¼% Convertible
Subordinated Notes due 2008, 2½%
Convertible Senior Subordinated Notes due
2010, and 2½% Convertible Subordinated
Notes due 2010; and DOES 1 through 10,
inclusive,

Defendants.

AND RELATED COUNTERCLAIMS.

Case No. 5:07-CV-04052-JF (PVT)

**PLAINTIFF FINISAR CORPORATION'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF ITS MOTION TO (1)
DISMISS, (2) STRIKE, AND
(3) ADJUDICATE U.S. BANK TRUST
NATIONAL ASSOCIATION'S
COUNTERCLAIMS**

Date: **Friday, July 11, 2008**
Time: **9:00 a.m.**
Courtroom: **3**

District Judge: Hon. Jeremy Fogel
Magistrate Judge: Hon. Patricia V. Trumbull

Complaint Filed: June 22, 2007
Trial Date Set: None Yet

1 Plaintiff Finisar Corporation ("Finisar") respectfully request that the Court take judicial
2 notice, in connection with "Plaintiff Finisar Corporation's Motion to (1) Dismiss, (2) Strike, and
3 (3) Adjudicate U.S. Bank Trust National Association's Counterclaims," of the following:

4 1. The "Complaint for Declaratory Relief" filed on March 2, 2007 in Case No.
5 1:07CV081092 in the Superior Court of the State of California for the County of Santa Clara,
6 truly and correctly reproduced as Exhibit "A" hereto;

7 2. The "Answer to Complaint for Declaratory Relief" filed on April 13, 2007 in Case
8 No. 1:07CV081092 in the Superior Court of the State of California for the County of Santa Clara,
9 truly and correctly reproduced as Exhibit "B" hereto; and

10 3. The "Answer to Complaint for Declaratory Relief" filed on August 6, 2007 in
11 Case No. 1:07CV088503 in the Superior Court of the State of California for the County of Santa
12 Clara, truly and correctly reproduced as Exhibit "C" hereto.

13 DATED: May 8, 2008

Respectfully submitted,

14 Sterling A. Brennan
15 L. Rex Sears
WORKMAN NYDEGGER A PROFESSIONAL CORPORATION

16 Caroline McIntyre
17 BERGESON, LLP

18 By /s/ L. Rex Sears
19 L. Rex Sears
Attorneys for Plaintiff FINISAR CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that on May 8, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:
D. Anthony Rodriguez, drodriguez@mofo.com; Abby E. Wilkinson, awilkinson@faegre.com;
Eva K. Schueller, eschueller@mofo.com; Michael B. Fisco, mfisco@faegre.com; Edward T. Wahl, ewahl@faegre.com and Paul T. Friedman, pfriedman@mofo.com.

WORKMAN NYDEGGER

/s/ L. Rex Sears

L. REX SEARS

WORKMAN NYDEGGER

1000 Eagle Gate Tower

60 East South Temple

Salt Lake City, UT 84111

Telephone: (801) 533-9800